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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SACV08-00489 AG (MLGx)

JANICE I. LAASKO,

Plaintiff,

vs.

XEROX CORPORATION, a New York Corporation; XEROX CORPORATION LONG-TERM DISABILITY INCOME PLAN; LAWRENCE M. BECKER, Plan Administrator for XEROX Corporation Long-Term Disability Income Plan; SHPS, a Florida Corporation; SHPS HMS, a Delaware Corporation, and DOES 1 through 10, Inclusive,

Defendants.

CASE NO.

COMPLAINT FOR BREACH OF INSURANCE CONTRACT, BENEFITS UNDER EMPLOYEE BENEFIT WELFARE PLAN (ERISA), DECLARATORY RELIEF, and FOR PENALTIES FOR FAILURE TO PROVIDE DOCUMENTS (ERISA)

I. JURISDICTION

1. This case involves a self-insured Long Term Disability (hereafter "LTD") benefit plan which is an employee welfare benefit plan governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §1001, *et. seq.* Jurisdiction is based on 29 U.S.C. §1132(e) in that this is an action by a benefit plan participant to obtain benefits, statutory damages, attorney's fees, interest, and costs under the plan.

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II. VENUE

2. Venue is proper under 29 U.S.C. §1132(e) and 28 U.S.C. §1391(b)(2) because the claims alleged herein arose in the County of Orange, California within the jurisdiction of the United States District Court for the Central District of California.

III. INTRODUCTION

3. This is a complaint for damages based upon a claim under ERISA for long term disability income benefits (hereafter "benefits") which PLAINTIFF asserts against DEFENDANTS. PLAINTIFF became disabled on or about August 12, 1992 within the meaning of the LTD plan, and duly applied for benefits. DEFENDANTS paid her benefits until on or about March 31, 2006, at which time Defendants terminated benefits in violation of the insurance contract and welfare benefit plan which covered PLAINTIFF. DEFENDANTS upheld their decision to terminate benefits on or about April 16, 2007. PLAINTIFF timely pursued her right to appeal for reconsideration of her claim pursuant to this adverse determination. Defendants never notified PLAINTIFF of a decision. Therefore, the decision on PLAINTIFF'S appeal for reconsideration of her claim is deemed denied. During the course of the claim handling, PLAINTIFF requested a number of documents to which she was entitled under ERISA and DEFENDANTS have refused to provide such documents, thus triggering penalties as provided in ERISA. Plaintiff now sues for all benefits accrued to the date of judgment together with statutory damages, interest, costs, and attorney's fees.

IV. PARTIES

4. Plaintiff JANICE I. LAASKO (hereafter "PLAINTIFF") at all times relevant was a resident of Orange County, California.

5. Defendant XEROX CORPORATION (hereafter "XEROX") is a corporation incorporated in the State of New York and doing business in the State of California.

6. Defendant XEROX CORPORATION LONG -TERM DISABILITY

1 INCOME PLAN (hereafter "PLAN") is a self-funded employee welfare benefit program
2 governed by ERISA.

3 7. Defendant LAWRENCE M. BECKER (hereafter "BECKER") Plan
4 Administrator of the XEROX CORPORATION LONG -TERM DISABILITY
5 INCOME PLAN.

6 8. Defendant SHPS (hereafter "SHPS") is a corporation incorporated in
7 the State of Florida and doing business in the State of California.

8 9. Defendant SHPS HMS (hereafter "SHPS HMS") is a corporation
9 incorporated in the State of Delaware and doing business in the State of California

10 10. XEROX CORPORATION, XEROX CORPORATION LONG-TERM
11 DISABILITY INCOME PLAN, LAWRENCE M. BECKER, SHPS, AND SHPS HMS
12 are hereafter collectively referred to as "DEFENDANTS".

13 11. PLAINTIFF is ignorant of the true names and capacities of
14 DEFENDANTS sued herein as DOES 1-10 inclusive, and therefore, sues these
15 DEFENDANTS by such fictitious names. PLAINTIFF will amend this complaint to
16 allege their true names and capacities when ascertained. PLAINTIFF is informed
17 and believes, and thereon alleges, that each of the fictitiously named
18 DEFENDANTS are responsible in some manner for the occurrences herein alleged
19 and that PLAINTIFF's damages are herein alleged were proximately caused by
20 such DEFENDANTS.

21 V. AGENCY

22 12. PLAINTIFF is informed and believes, there thereupon alleges, that at
23 all times mentioned herein, unless otherwise alleged, DEFENDANTS, and each of
24 them, including DOES 1-10, inclusive, and each of them, were the agents, servants,
25 and employees, of their co-defendants, and were, as such, acting within the course,
26 scope and authority of said employment and/or agency, and with the knowledge,
27 consent, permission and/or ratification of each other.

28 13. PLAINTIFF is informed and believes, and thereon alleges, that at all

times mentioned herein, each of the XEROX DEFENDANTS is a Corporation which is a parent, subsidiary, successor or predecessor entity to each of the other defendants, and that all such defendants share such an identity of interest and ownership as to be directly and vicariously responsible for all damages and claims alleged by PLAINTIFF herein.

VI. FACTS AND CLAIMS FOR RELIEF

14. On or about August 8, 1978 PLAINTIFF became an employee of XEROX.

15. On or about March 12, 1992 PLAINTIFF became totally disabled and unable to perform the duties of her position at XEROX. She has remained totally disabled ever since.

16. PLAINTIFF was determined to be totally disabled and exhausted her Short Term Disability benefits on or about August 10, 1992.

17. At the time PLAINTIFF became totally disabled, XEROX had in place the "PLAN",¹ an employee welfare benefit plan within the meaning of ERISA, which provided benefits for employees who became disabled. XEROX implemented the provisions of the PLAN by establishing a trust fund to which XEROX makes payments from time to time as may be deemed advisable to fund the benefits under the PLAN. Pursuant to XEROX, PLAINTIFF was covered by the aforementioned PLAN and was a beneficiary of the PLAN.

18. On or about August 11, 1992 PLAINTIFF was determined to be totally disabled within the meaning of the PLAN and became entitled to receive the benefits provided for therein. PLAINTIFF has remained continuously disabled ever since, within the meaning of the PLAN, and has been and is now entitled to receive benefits pursuant to said PLAN.

19. PLAINTIFF furnished DEFENDANTS with written notice of her claim

¹"The 1991 Restatement of the Xerox Medical Care and Long Term Disability Income Plan" and "1990 Summary Plan Description" entitled "You and Xerox."

1 and proof of loss under the PLAN and has otherwise performed all the terms and
2 conditions of the PLAN on her part to be performed.

3 20. On or about March 23, 2006 DEFENDANTS orally notified PLAINTIFF
4 that her benefits would be terminated effective March 31, 2006. Ever since that
5 date DEFENDANTS have refused to pay any benefits to PLAINTIFF. Such
6 refusal to pay benefits is in breach of the provisions of the PLAN and ERISA.

7 21. After receiving notification that her claim for benefits was being
8 terminated PLAINTIFF timely appealed that decision.

9 22. On or about April 16, 2007, DEFENDANTS notified PLAINTIFF that it
10 reaffirmed its termination of PLAINTIFF's benefits, and that she had the right to
11 submit an appeal for reconsideration of her claim.

12 23. PLAINTIFF timely appealed the adverse determination.

13 24. DEFENDANTS did not notify PLAINTIFF of a decision on
14 PLAINTIFF'S appeal for reconsideration of her claim. Therefore, PLAINTIFF is
15 entitled to deem this appeal denied.

16 25. PLAINTIFF has exhausted all review procedures available to her prior
17 to filing suit.

18 26. As a proximate result of DEFENDANTS refusal to pay PLAINTIFF
19 the benefits to which she is entitled under said PLAN, PLAINTIFF has been
20 damaged in an amount equal to all unpaid benefits to the date of judgment herein.

21 27. PLAINTIFF has further been damaged in an amount equal to interest
22 provided by law on all unpaid sums to the date of judgment herein.

23 28. PLAINTIFF has been required to employ counsel to enforce her rights
24 in this matter and is therefore entitled to an award of attorney's fees as provided by
25 ERISA and prevailing law.

26 29. PLAINTIFF, through her attorney, requested DEFENDANTS provide
27 copies of all documents in their possession relevant to her claim and the
28 determination thereof. DEFENDANTS failed and refused to provide any documents

1 in a timely fashion as required by ERISA and regulations adopted pursuant thereto.
 2 DEFENDANTS did eventually provide some documents, but they failed to provide
 3 or make available to PLAINTIFF or her attorney a great many of the documents to
 4 which PLAINTIFF was entitled. As a result of said failure and refusal to repeatedly
 5 fail to produce specified documents relevant to PLAINTIFF'S rights under the PLAN
 6 in violation of 29 C.F.R. §2560.503-1 et seq, PLAINTIFF is entitled to statutory
 7 damages, in an amount to be proven at trial, of \$110.00 (one-hundred & ten dollars)
 8 per day for each document sought pursuant to 29 U.S.C. §1132 (c)(1).

9 30. DEFENDANTS were obligated to produce said documents. The fact
 10 that the Plan Administrator/Fiduciary engaged in actively concealing material
 11 information from its beneficiary, inter alia, constitutes an actionable claim for breach
 12 of fiduciary duty.

13 31. Declaratory Relief Requested and Recovery of Benefits Sought by
 14 PLAINTIFF.

15 31.1 On the basis of the forgoing, an actual controversy has arisen
 16 and now exists between PLAINTIFF and DEFENDANTS in that
 17 PLAINTIFF contends and DEFENDANTS deny the following;

18 A. That PLAINTIFF is disabled, as defined by the PLAN
 19 and is entitled to receive benefits, as provided by
 20 the provisions of PLAN;

21 B. That DEFENDANTS are obligated, under the terms,
 22 conditions, and provisions of the PLAN to pay PLAINTIFF
 23 benefits accruing to PLAINTIFF under the terms
 24 and provisions of the PLAN and DEFENDANTS have failed to
 25 do so;

26 C. That DEFENDANTS are obligated to immediately pay
 27 PLAINTIFF all accrued past benefits (including interest) that are
 28 due under the PLAN in amount to be proven at trial;

1 D. That DEFENDANTS are obligated to commence
2 immediate payment of monthly benefits, in an
3 amount to be proven at trial, for every month of PLAINTIFF'S
4 continued disability under the PLAN;

5 E. That DEFENDANTS have acted in an arbitrary and
6 capricious manner and have abused their discretion.

7 32. PLAINTIFF desires a judicial determination of the respective rights and
8 duties of PLAINTIFF and DEFENDANTS, with respect to the above-referenced
9 claims and the amounts thereof.

10 33. Such a declaration is necessary and appropriate at this time and 29
11 U. S.C. § 1132(a)(1)(B) specifically authorizes such a declaration.

12 34. The actions and conduct of DEFENDANTS have and will directly and
13 proximately cause a loss of income to PLAINTIFF and have and will deprive
14 PLAINTIFF of the protections of ERISA.

15 35. PLAINTIFF's injuries are irreparable in that PLAINTIFF presently has no
16 income and no medical insurance (which is contingent on PLAINTIFF'S disabled
17 status).

18 36. PLAINTIFF has no adequate remedy, other than herein prayed for, to
19 redress the present violations of the PLAN provisions and of the law; nor does any
20 other adequate remedy exist, by which the court may determine the rights of the
21 parties hereto.

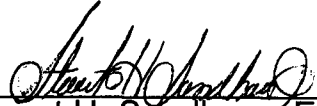
22 37. PLAINTIFF has been required to employ counsel to enforce her rights
23 in this matter and is therefore entitled to an award of attorney's fees as provided by
24 ERISA and prevailing law.

25 **WHEREFORE, PLAINTIFF prays judgment as follows:**

- 26 1. For damages under the PLAN according to proof for all unpaid benefits to the
27 date of judgment herein;
28 2. For interest on all such unpaid benefits according to law;

3. For a declaration of the respective rights and duties of PLAINTIFF and DEFENDANTS with respect to the subject claim and the amount thereof;
4. For statutory damages as provided under ERISA;
5. For failure to produce documents and information, statutory penalties assessed in the amount of \$110.00 per day for each document sought.
6. For an award of reasonable attorney's fees;
7. For costs of suit herein incurred; and
8. For such other and further relief as the court may deem proper.

DATED: May 2, 2008

By: 
Stuart H. Sandhaus, Esq.
Counsel for Plaintiff Janice I. Laasko